

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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TYESHAWN D. COHENS,

Petitioner,

v.

Case No. 05-C-520

CATHERINE J. FARREY,

Respondent.

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**ORDER GRANTING PETITIONER'S MOTION TO AMEND PETITION AND  
SETTING BRIEFING SCHEDULE**

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On January 20, 2006, this court entered an order staying and placing in abeyance the petition for writ of habeas corpus which had been previously filed by Tyeshawn D. Cohens ("Cohens") so as to allow him an opportunity to exhaust in Wisconsin state court those claims which he had asserted in a § 974.06 postconviction motion. On October 4, 2006, Cohens filed a "Motion to Amend Habeas Corpus Petition." Because it was not clear from Cohens's motion whether he had exhausted the claims that had been presented in his § 974.06 motion, the court conducted an on-line search and confirmed that Cohens's postconviction motion had been denied by the circuit court on November 8, 2005; that the court of appeals had affirmed the circuit court's decision on July 5, 2006; and that the supreme court had denied Cohens's petition for review on July 31, 2006.<sup>1</sup> Given the foregoing, the court will construe Cohens's currently pending motion to include a request to lift the previously entered stay on his petition.

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<sup>1</sup> This court has obtained a copy of the court of appeals' decision. However, this court has not been provided with a copy of (and thus has not reviewed) either the circuit court's decision or the supreme court's order denying the petition for review.

The previously entered stay will be lifted. Furthermore, Cohens's motion to amend his habeas corpus petition will be granted. In order to make more clear the precise nature of his newly added claim the court will permit Cohens to file an amended petition which should include the claim (or claims) which were presented in his § 974.06 postconviction motion. Along with his amended petition Cohens should file a copy of the written decision of the trial court (circuit court), as well as a copy of the supreme court's denial of Cohens's petition for review. Cohens is to file the amended petition along with the above-identified documents no later than November 1, 2006. The briefing on the newly added claims in Cohens's amended petition shall proceed as follows.

On or before November 30, 2006, Cohens shall file his brief in support of his newly added claims. On or before December 31, 2006, the respondent shall file her brief in opposition to Cohens's brief. On or before January 15, 2007, Cohens shall file his reply brief.

There is one final matter. Briefing on the issues raised in Cohens's initial petition have already proceeded through the petitioner's initial brief and the respondent's response brief (which was filed on August 31, 2005). The petitioner has not yet filed his reply brief on the issues raised in his initial petition. This is because he filed his motion to dismiss, or in the alternative, to stay on September 1, 2005 (which was prior to the date his reply brief was due, i.e., October 3, 2005). Thus, Cohens may include in his November 30, 2006, brief arguments in reply to the arguments presented by the respondent in her August 31, 2006, brief. Beyond that, no further arguments on the claims presented in Cohens's initial petition will be allowed.

**SO ORDERED** this 6th day of October 2006, at Milwaukee, Wisconsin.

/s/ William E. Callahan, Jr.  
WILLIAM E. CALLAHAN, JR.  
United States Magistrate Judge